

## **Idaho Panhandle NF Objection Issue Summary**

### **Recommended Wilderness and Wilderness Study Area Management**

#### **Objectors for This Issue:**

- Idaho Department of Parks and Recreation, **Nancy C. Merrill, Director**
- Idaho State Snowmobile Association, **Sandra F. Mitchell, Public Lands Director**
- Montana Mountain Bike Alliance, **Greg Beardslee**
- BlueRibbon Coalition, **Paul A. Turcke**
- **John Finney**

#### **Objection Issue Summary:**

Multiple objections raised various issues associated with the management direction for Recommended Wilderness areas (RWAs). At the core of these issues was the allegation that a Regional policy had been relied on to prohibit motorized and mechanized use in the RWAs and that this policy had been established without required public review and comment, or applicable NEPA procedures. The prohibitions of concern are imposed on bicycles and over-snow vehicles. Objectors also contend that with the application of this policy, the FEISs provide inadequate site-specific analysis to support restrictions on motorized and mechanized access in the RWAs.

A related issue was raised in regard to lack of consistency in management direction between RWAs and Wilderness Study Areas (WSAs). Specifically, objectors contend non-conforming motorized and mechanized uses are allowed to continue in the Grandmother Mountain WSA, yet illogically prohibited in RWAs.

Finally, a related issue is the contention that prohibitions on existing snowmobile and motorized recreation included in the management area direction constitute site-specific decisions made outside the agency's travel management procedures and without adequate compliance with NEPA.

#### **Objection Issue Examples:**

An objector contends the Region 1 policy of prohibiting bicycle use in Recommended Wilderness has not been properly subjected to critical and legal review. IPNF applied Regional policy for how to manage recommended wilderness, but that policy is invalid because it was not subjected to NEPA procedures and not subjected to public review and comment before it was adopted.

"We also find the LMP to be in violation of National Forest Service Policy and NEPA in addressing RWA's, conforming in lock step with a regional policy developed with no public involvement that pre-empts all Forest Plans and Travel Plans in Forest Service Region 1...This guidance, as Mr. Tidwell referred to it, was prepared behind closed doors, with no public input and outside of any NEPA process, yet it drives every forest plan and every travel plan in the region, predetermining the outcome of those plans with respect to RWA's. It has enormous consequences to snowmobilers and the communities that depend on that activity to support their winter economies. In the light of your admission that there is no documented resource damage on which to base your decision to prohibit all motorized and mechanized use, we must conclude that this illegally prepared, sweeping policy is the basis for your decision. Your decisions on management of RWA's are both arbitrary and capricious, violating NEPA and breaching the public trust."

"The desired condition DC-AR-01 states that "The existing wilderness character and potential for inclusion in the National Wilderness Preservation System is retained for the national forest portion of the Grandmother Mountain WSA, while uses allowed prior to the legislation continue." Apparently mountain bikes, snowmobiles and single track vehicles are not as impactful there as they are on RWA's. The illogic of this should be self-evident. Although the Wilderness Study Area is designated by Congress and the legislative language allows existing uses to continue, this statement confirms that wilderness character and potential for designation can be preserved while allowing these uses."

"MA designations (particularly MA1b designations) which eliminate existing snowmobile/motorized recreation opportunities as laid out in the Travel Management Plan constitute site-specific decisions made without adequate NEPA or public process and are contrary to the Idaho Roadless rule."

### **Summary of Review Findings:**

#### **What is required?**

Forest Service Manual (FSM) 1923.03(1) provides the Forest Service policy on management of recommended wilderness areas: "Any inventoried roadless area recommended for wilderness or designated wilderness study is not available for any use or activity that may reduce the wilderness potential of an area. Activities currently permitted may continue, pending designation, if the activities do not compromise wilderness values of the area."

Regarding the alleged lack of consistency in management direction between RWAs and WSAs (Grandmother Mountain, specifically), the Forest has explained that legislation transferring management of this area from BLM to the Forest Service results in the Forest

having to retain the area as a WSA and to allow uses that were in place when the land was acquired by the Forest Service.

Forest Service regulations at 36 CFR 212.55 provide the criteria to be used for designating motorized use on roads, trails, and areas, and at 36 CFR 212, subpart C provide direction for managing use by over-snow vehicles. The regulations at subpart C specify, in part, that prohibitions or restrictions proposed for use of over-snow vehicles are subject to the provisions of several listed sections in subpart B of the regulations, including section 212.55.

### **What the planning record shows**

The Draft ROD (p. 19) summarizes the management decision made with regard to recommended wilderness in the revised Forest Plan: “The revised Plan closes recommended wilderness to motorized and mechanized use. Thus, over-snow vehicle use and mountain biking will not be allowed within recommended wilderness. These uses are not allowed in recommended wilderness because they impact wilderness character and could lead to these areas no longer being suitable for wilderness designation.”

The 2007 Region 1 document that the objectors consider policy, is “Consistency in Land and Resource Management Plans - Management of Recommended Wilderness” (R1 Consistency Paper). It has existed in similar form since 2003. The reviewer has had extensive discussions with the Forest and the Region and has been assured that the paper was not meant to be regional policy, binding on the IPNF or any other forest. Instead, the R1 Consistency Paper simply suggests a method for forests to make recommended wilderness management decisions during the planning process. It does not remove the discretion of the forest to consider various management approaches consistent with FSM 1923.03.

IPNF evaluated the wilderness capability, availability, and need of roadless areas. *See* FEIS Appendix C; FSH 1909.12, Ch. 70. As stated in the FEIS, “[i]n those areas that are recommended wilderness, the decision was made to restrict motorized and mechanized uses, to maintain the wilderness characteristic including outstanding opportunities for solitude or primitive and unconfined recreation.” FEIS, Appendix G, p. 372. Therefore, IPNF did provide a reasoned basis for this management decision.

Regarding the alleged lack of consistency in management direction between RWAs and WSAs (Grandmother Mountain, specifically), IPNF provides the following relevant response with regard to Grandmother Mountain WSA:

This area is designated as a Wilderness Study Area (MA1c). Under BLM ownership, this area was designated as a Wilderness Study Area under the Federal Land Policy

and Management Act. The legislation that accompanied the land exchanges for this area (the Arkansas-Idaho Land Exchange Act of 1992 and the Idaho Land Enhancement Act of 2006) requires the Forest Service to maintain the wilderness character and suitability for designation as wilderness until Congress determines otherwise. Because of the requirement to maintain this suitability until Congress makes a determination, *the Forest is required to retain these areas as Wilderness Study [A]reas (MA1c) and to allow uses that were in place when the land was acquired by the Forest Service. One of the established uses is single track motorized use, which will be allowed in the revised Forest Plan.* OHV use, including ATV use, was not an established use when the Forest Service acquired the Wilderness Study Area; therefore, this use is not allowed in the revised Forest Plan[.]

FEIS Appendix G at p. 374 (emphasis added); *see also* IPNF Revised Forest Plan, p. 49.

Specific direction is found in the Draft ROD, pages 17-18, discussing the difference between the programmatic Forest Plan and the site specific Travel Management Rule through previous and ongoing travel planning efforts. The Forest Plan does not change existing travel management decisions for motorized use. The revised Plan closes recommended wilderness to motorized and mechanized use. Thus, over-snow vehicle use and mountain biking would not be allowed within recommended wilderness.

Other backcountry areas provide a range of quiet non-motorized and motorized opportunities, and allow these uses. Those acres allocated to primitive lands (MA1e) will allow winter motorized recreation (oversnow vehicle use) and mountain biking as stated in the ROD on page 19.

While Plan decisions are generally programmatic, the IPNF included site-specific analysis to make decisions to restrict motorized and mechanized use in management areas allocated to recommended wilderness and research natural areas. This analysis can be found within the FEIS at Watershed on page 198, Wildlife on page 357-372, and Access and Recreation on pages 417-420. The decision would authorize an accompanying closure order as per 36 CFR 261 Subpart B and aligns the allowed uses within the management area direction established in the revised Plan as stated in the ROD on page 4.

## **Conclusions**

- Because the Region 1 “Consistency Paper” was not intended to be binding Regional policy, neither NEPA nor public review and comment opportunities are applicable to the paper and the Responsible Official’s decision on management of the RWAs is consistent with agency policy at FSM 1923.03. However, it appears the Forests have given the public the impression in the FEIS that it relied on the Regional paper without

further independent review in making management decisions about recommended wilderness.

- The IPNF must follow certain statutory stipulations regarding management of existing uses in the Grandmother Mountain WSA. Those uses include single-track motorized use, which will be allowed under the Revised Plan. Such WSA statutory stipulations do not control IPNF's management actions in recommended wilderness areas outside this WSA.
- The revised Plan and draft ROD do include a site-specific decision to prohibit over-snow and mountain biking use in recommended wilderness areas. The FEIS includes sufficient site-specific analysis to support this decision, though it is not easy for the reader to discern this because it is disaggregated within the document.

#### **Considerations for Dialogue at the Meeting:**

- Review and clarify, as appropriate, any documents in the record referencing the "R1 Consistency Paper" to reflect that the paper is not binding policy, but instead is a reference tool used to assist Forests as they consider management options for recommended wilderness.
- The FEIS and the ROD should also describe IPNF's independent consideration of forest-specific issues pertaining to recommended wilderness management decisions. In doing so, IPNF should provide a more detailed explanation of the nature of impacts from motorized and mechanized uses to wilderness capability and availability, as well as why prohibiting these uses was the best management decision for recommended wilderness areas on the Forest.
- Summarize and reference in the ROD the environmental analysis supporting the site-specific decision being made. The summary should specifically address the minimization criteria described at 36 CFR 212.55. Of course, the site-specific decision to prohibit over-snow and mountain biking in recommended wilderness areas must also be supported by analysis disclosing why continuation of these uses would compromise the wilderness values of the areas recommended for wilderness.